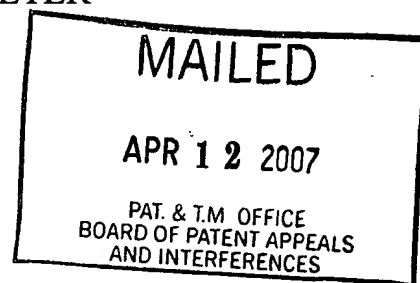


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte JOHN S. ERICKSON and MARK SCHLAGETER

Application 09/941,606



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on January 16, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

July 7, 2006, appellants filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map the independent claims, claims 1, 2, 8 and 11 to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

In addition, the Examiner’s Answer mailed August 22, 2006, does not fully comply with the requirements of 37 CFR § 41.37. The following heading needs to be included in accordance with MPEP § 1207.02:

Application 09/941,606

“Related Proceedings Appendix” – Copies of any decisions rendered by a court or the Board in any proceeding identified by the examiner in the “Related Appeals and Interference” section of the answer.

A revised Examiner’s Answer that is in full compliance with 37 CFR

§ 41.37 is required.

Accordingly, it is ORDERED that the application is return to the

Examiner to:

- 1) hold the Appeal Brief filed on July 7, 2007, defective;
- 2) notify appellants to file a supplemental Appeal Brief compliance with 37 CFR § 41.37;
- 3) if necessary vacate the Examiner’s Answer mailed August 22, 2006, to consider the supplemental Appeal Brief and submit a revised Examiner’s Answer in accordance with the new rules effective September 13, 2004, and;
- 4) for such further action as may be appropriate.

Application 09/941,606

BOARD OF PATENT APPEALS
AND INTERFERENCES



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